IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 276/2005

Shri Vasu Vithal Gaude,
son of late Vithal Putu Gaude,
major of age, residing at Bhoma,
Ponda, Goa. ..... Petitioner.

V/s.

M/s Wallace Estates Private Limited,
A Company incorporated under the
Indian Companies Act, 1956, and
having their registered Office at
3rd Floor, D.T.C. Building, Patto Plaza,
EDC Complex, Panaji, Goa,
represented by its Managing Director
Maria Emelia Menezes, through his
duly constituted Attorney Shri
Mahendra Kusta Alve, major of age,
Service, residing at House No.210,
Near Vithal Mandir, Comba,
Margao, Goa. ..... Respondents.

Mr. J.P. Mulgaonkar, Advocate for the petitioner.

Mr. S.M. Singbal, Advocate for the respondents.

CORAM : S.S. PARKAR, J.

DATE : 11TH AUGUST, 2005.

ORAL JUDGMENT :

Rule. At the time of issuing the notice on 21.7.2005, it was stated that the petition would be finally disposed of at the admission

stage. Accordingly the respondents are served and are being represented by Mr. Singbal. The petition is, therefore, heard and is being disposed of finally.

2. This petition is filed challenging the order dated 30th April, 2005 rejecting the application for extension of time for filing the written statement by the defendant. The summons was served upon the defendant on 30.3.2005. On 30th April, 2005, the Advocate for the defendant filed a written application stating as follows :

> " Be pleased to grant some time to the Defendant to file written statement as the Defendant advocate is unable to prepare and file the same as some documents required for the purpose of preparing the same is not in possession of Defendant."

The said application was rejected on the ground that the defendant had not specified which were the documents required for preparing the written statement. Accordingly, the defendant had filed the said application as a matter of course. In my view, the learned trial Judge should not have been so rigid in rejecting the application made for the first time for extension of time. The period for filing the written statement can be extended for the reasons to be recorded in writing. In my view, it was a case where a short time could have been granted, even

by imposing costs on the defendant.

3. In the circumstances, the impugned order is set aside and the petition is allowed. The petitioner shall file written statement within a period of two weeks from today. The hearing of the application for temporary injunction shall be expedited and the same shall be fixed for hearing on 29th August, 2005 before which date the Petitioner shall file the reply/affidavit, if any.

S.S. PARKAR, J.

ssm.